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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,423	03/13/2001	Thomas J. Pennello	MW1.002A	2137
27299	7590	05/02/2006	EXAMINER	
GAZDZINSKI & ASSOCIATES 11440 WEST BERNARDO COURT, SUITE 375 SAN DIEGO, CA 92127			WOOD, WILLIAM H	
			ART UNIT	PAPER NUMBER
			2193	
DATE MAILED: 05/02/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/805,423	Applicant(s) PENNELLO ET AL.	
	Examiner William H. Wood	Art Unit 2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,11-13,17-22,50,51 and 54-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4,11-13,19-22,50,51 and 54-61 is/are allowed.
- 6) ☒ Claim(s) 1-4,11-13,17-22 and 60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-4, 11-13, 17-22, 50-51, 54-61 are pending and have been examined.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 21 November 2005 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kernighan et al.**, "The Practice of Programming" (page 149-150) in view of **Baird et al.** (USPN 5,848,264).

Claim 17.

Kernighan disclosed a method of evaluating the operation of a plurality of software processes (*page 149-150*), comprising:

- ♦ generating a first data string using a first software process (*page 149-150; note third paragraph under “Automate regression testing” section*);
- ♦ generating a second data string using said first software process (*page 149-150; note third paragraph under “Automate regression testing” section*);
- ♦ inputting said first and second data strings into a debug software process (*page 149-150; note third paragraph under “Automate regression testing” section*);
- ♦ analyzing said first and second data strings using said debug process (*page 149-150; note third paragraph under “Automate regression testing” section*);
and
- ♦ evaluating the operation of said processes based at least in part on said act of analyzing (*page 149-150; note third paragraph under “Automate regression testing” section*)
- ♦ generating and comparing third data strings (*page 149-150, additional testing a using of cmp command*)

Kernighan did not explicitly state *processes running on respective ones of a plurality of digital processors*. **Baird** demonstrated that it was known at the time of invention to debug processes from several CPU cores, digital processors (column 5, lines 16-27; column 6, lines 32-39; figure 3). It would have been obvious to one of ordinary skill in

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the art at the time of invention to implement the comparison debugging/testing of **Kernighan** with multiple processors as found in **Baird**'s teaching. This implementation would have been obvious because one of ordinary skill in the art would be motivated to increase debug/test capacity for quicker more efficient execution (**Baird**: column 2, lines 38-40), thus executing the tests quicker through parallel execution afforded by multiple processors.

Claim 18

Kernighan and **Baird** disclosed the method of Claim 17, wherein the act of analyzing comprises:

- (i) identifying common patterns within at least one first portion of said first and second data strings (**Kernighan**: page 149-150; note second paragraph under "Automate regression testing" section); and
- (ii) identifying differences within at least one second portion of said first and second data strings (**Kernighan**: page 149-150; note second paragraph under "Automate regression testing" section)

Allowable Subject Matter

Claims 1-4, 11-13, 19-22, 50-51, 54-61 are allowed.

The following is an examiner's statement of reasons for allowance: the prior art of record fails to teach or suggest the claimed invention. Specifically, the prior art of

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record fails to teach or suggest the analysis method comprising identifying and grouping and analyzing for integration problems based on groups, as recited in independent claim 1 (and the other allowed independent claims).

The prior art of record failed to disclose the independent claims as recited, including the identification of groups and then subsequent analysis.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

Applicant's arguments filed 21 November 2005 with regard to claims 17-18 have been fully considered but they are not persuasive. Applicant argued no disclosure in the references of a plurality of digital processors and no motivation to combine the cited prior art. First, the plurality of cores are a plurality of processors under the broadest reasonable interpretation of the claim language. A core is *capable* of processing independent programs as Applicant has pointed out (column 2, lines 30-31). As to the motivation, the above rejections make it clearer how increasing the volume of testing is applicable to **Kernighan** and **Baird**. Applicant's argument is not immediately clear, since the references are viewed over each other and having nothing to do with

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Applicant's claimed invention. Having addressed the raised concerns, the rejections are maintained as indicated above.

Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (571)-272-3736. The examiner can normally be reached 9:00am - 5:30pm Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571)-272-3719. The fax phone numbers for the organization where this application or proceeding is assigned are (571)273-8300 for regular communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.



William H. Wood
Patent Examiner

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May 1, 2006